



## **AMENDED AGENDA**

### **Board of Adjustment REGULAR MEETING**

**DAY & DATE:** Wednesday, August 6, 2003  
**TIME:** **6:00 PM**  
**LOCATION:** 3939 N. Drinkwater Boulevard  
Kiva at City Hall

#### **CALL TO ORDER**

#### **ROLL CALL**

#### **APPROVAL OF MINUTES**

1. May 7, 2003
2. June 4, 2002

#### **REGULAR AGENDA**

3. **6-BA-2003** (Khalaj Residence) request by David Khalaj, applicant/owner, for a variance from the 24-foot height restriction to allow a 28-foot ridgeline on a property located at 12670 E Cochise Drive with Single Family Residential, Environmentally Sensitive Lands zoning (R1-43 ESL). Staff contact person is Al Ward, 480-312-7067. Applicant contact person is David Khalaj, 602-722-4457.

#### **ADJOURNMENT**

The Board of Adjustment consists of:

James Vail, Chairman; Terry Kuhstoss, Vice Chairman; Jennifer Goralski, Carol Perica, Norman Sands, Neal Waldman, Laurel Walsh, Commissioners.



Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the City Clerk's Office at 480-312-2412. Requests should be made as early as possible to allow time to arrange accommodation.

# BOARD OF ADJUSTMENT REPORT



MEETING DATE: 8/6/2003

ITEM NO. \_\_\_\_\_

ACTION REQUESTED: Zoning Ordinance Variance

## SUBJECT

**Khalaj Residence**

## REQUEST

Request to approve a variance from the 24-foot height restriction to allow a 28-foot ridgeline on a property located at 12670 E Cochise Drive with Single Family Residential, Environmentally Sensitive Lands zoning (R1-43 ESL).

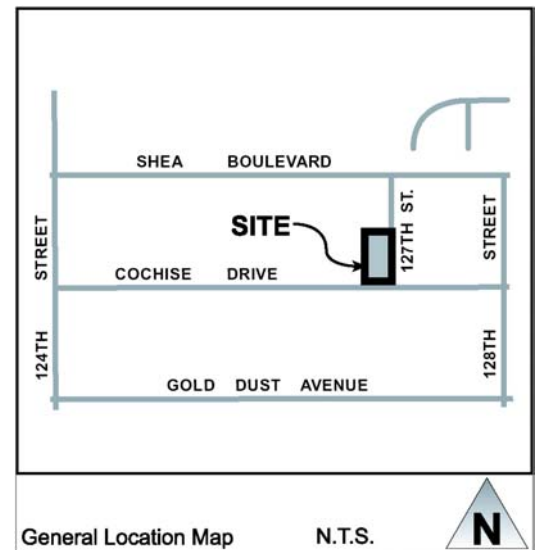
**6-BA-2003**

## OWNER/ APPLICANT CONTACT

David Khalaj  
[REDACTED]

## LOCATION

12670 E Cochise Dr



## PUBLIC COMMENT

The applicant has sent out notices to surrounding property owners; the City has also sent out notices to 21 property owners within 300 feet of the subject property.

- Two (2) letters of support have been received from neighbors.
- Staff received one (1) phone call requesting additional information; the caller indicated that the applicant should be required to comply with the provisions of the Ordinance applicable to the site.

## ZONING

The lot is zoned R1-43 ESL (Single Family Residential, Environmentally Sensitive Lands).

## DEVELOPMENT CONTEXT

The undeveloped, 1.16+/- acre parcel is located at 12670 E Cochise Drive, which is west of 128<sup>th</sup> Street, south of Shea Boulevard, and north of Gold Dust Avenue.

The site has a rural desert character and is located within the Environmentally Sensitive Lands Ordinance area and requires the preservation of Natural Area Open Space (NAOS).

**ORDINANCE  
REQUIREMENTS**

Article VI, Section 6.1070.B.1.b of the Zoning Ordinance limits the maximum allowed building height to twenty-four (24) feet above natural grade in single-family residential ESL (R1 ESL) districts.

**History**

ESLO 1	1991	30-ft height limit
ESLO 2	2002	26-ft
ESLO 2-Update	2003	24-ft

**Ordinance Applicability**

The Scottsdale City Council adopted the 24-foot building height, along with other revisions, to the Environmentally Sensitive Lands Ordinance (ESLO-2 Update) on April 1, 2003, with the revised Ordinance coming into effect 30 days later, on May 1, 2003.

A building permit must be issued prior to the new ordinance coming into effect in order for the provision of the previous Ordinance to apply.

**APPLICANT’S  
PROPOSAL**

The request is to allow a single-family home to be built to a height of twenty-eight (28) feet above natural grade, rather than the twenty-four (24) feet currently provided by the Zoning Ordinance.

The appellant maintains that, prior to submittal, the City had indicated to him that the established building height for this area was 26 feet. The appellant submitted plans for development of a 7,900 square-foot single-family home on April 25, 2003, prior to May 1, 2003, the day the new ESL Ordinance took effect.

The appellant also notes that five (5) existing residences located in the immediate vicinity and essentially surrounding his lot all have heights above the current requirement of 24 feet. A surveyor was hired by the appellant to geometrically calculate the heights of the surrounding homes and the following heights were determined. See *Attachment 8*.

**FINDINGS**

- 1. That there are special circumstances applying to the property referred to in the application which do not apply to other properties in the District. The special circumstances must relate to the size, shape, topography, location or surroundings of the property at the above address:**

The appellant states that the special circumstances pertaining to this property are that many of the existing residences in the area were allowed a twenty-six (26) to thirty (30) building height.

*Staff notes that the current 24-foot building height provisions of the R1-43 ESL zoning district apply to new residences receiving building permits on or after May 1, 2003. Although the adjacent buildings have higher heights, as allowed by a previous version of the Ordinance, the current 24-foot building heights apply to this case.*

- 2. That the authorizing of the variance is necessary for the preservation of the privileges and rights enjoyed by other properties within the same zoning classification and zoning district:**

The appellant states that this building should benefit from previous standards applied to five (5) other homes located in the immediate vicinity of the subject lot, which contain the same approximate building height being requested.

*Staff observes that the adjacent homes were built under the provisions of the previous ESL Ordinance, which allowed for higher building heights ranging from twenty-six (26) to thirty (30) feet.*

- 3. That special circumstances were not created by the owner or applicant:**

The appellant indicates that the house plans for the site were submitted to the City on April 25, 2003. This was approximately one week prior to the current version of the ESL Ordinance that came into effect on May 1, 2003. The appellant also indicates that he did not have control over the length of time required by City staff to review these plans and that during this review period, the lower building height requirement was implemented.

*Staff again notes that a building will only be held to a previous standard if the building permit is issued prior to the date new requirements come into effect. If a building permit has not yet been issued, City policy maintains, the plans are reviewed under the provisions of the current version of the Ordinance.*

4. That the authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general:

The appellant states that the requested 28-foot building height will not be detrimental to persons residing in the vicinity, to adjacent property, the neighborhood, or the general public welfare since the requested height is currently existing on the adjacent lots.

*The principle of maintaining low building heights in the Environmentally Sensitive Lands Ordinance is to protect and preserve significant natural and visual resources, to reduce the visual impact of building, and to maintain the rural desert character of the area.*

**STAFF CONTACT**

---

Al Ward, Senior Planner  
Report Author  
Phone: 480-312-7067  
E-mail: [AWard@ScottsdaleAZ.gov](mailto:AWard@ScottsdaleAZ.gov)

**ATTACHMENTS**

1. Application
2. Background Information
3. Justification
4. Project Narrative
5. Context Aerial
6. Aerial Close-Up
7. Zoning Map
8. Comparison of Surrounding Properties
9. Proposed Site Plan

For the entire report, including attachments, please refer to the case fact sheet:  
<http://eservices.scottsdaleaz.gov/planning/casesheet.asp?caseid=25716>